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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,838	06/26/2002	Tobias Kaufhold	GK-ZEI-3149/500343.20150	4197

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EXAMINER

AWAD, AMR A

ART UNIT PAPER NUMBER

2675

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/030,838	Applicant(s) KAUFHOLD ET AL.	
	Examiner Amr Awad	Art Unit 2675	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites, "the current operating state and/or the object to be observed..." There is a lack of antecedent basis for both "the current operating state" and "the object to be observed", which makes the claim indefinite. Claim 8 recites, "the control electronics" which lacks antecedent basis, which makes the claim indefinite. Claims 10 recites "said eyepiece being constructed with respect to shape, size and fastening means in a same manner which is the same as an eyepiece not having such a device, so that an eyepiece wit or without such a device can be exchanged on optical observation instruments" which is not clear to the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Glaser et al. (US patent NO. 4,202,037; hereinafter referred to as Glaser).

As to independent claim 6, Glaser (figures 1-6) teaches an optical observation instrument (microscope 11) that includes at least one eyepiece (viewing means 22) having an intermediate image plane (figures 4a-4c), and a device for displaying information relating to the adjusted instrument parameters, the current operating state and/or the object to be observed (specimen 28) in a visually perceptible manner being arranged in the intermediate image plane (col. 5, line 10 through col. 6, line 10).

As to claim 9, as can be seen in figures 4a-4c, Glaser shows that the information for the observer is perceptible in the eyepiece outside the image field area for observing of the specimen (col. 5, lines 10-44).

As to claim 10, as best understood by the examiner, claim 10 is substantially similar to independent claim 6 because the device is used for different specimen.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser. Glaser teaches all the limitations of claim 7 except the citation of having LED display or LCD display connected to the control electronics. However, as seen in figure 1 a graphic display 19 connected to the controller 17. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to

have the graphic display 19 as LED or LCD display so as to reduce the size of the display as well as to reduce the power consumption.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser in view of Sakano (US patent NO. 6,292,214).

As can be seen above, Glaser teaches all the limitations of claim 8 except the citation of having the control electronics are integrated in the eyepiece tube and are connected to the central operating device.

However, Sakano (figure 1) shows a microscope (100) wherein a controller (36) is connected to the central operating device (the optical part of the microscope), and integrated within the microscope device (10) (col. 6, lines 50-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the teaching of Sakano having the controller integrated with the microscope to be incorporated to Glaser's device so as to reduce the number of separately located items in the device, which will increase the portability of the device.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brimhall, Jr., et al. (US patent NO. 4,503,555) teaches a semi-automatic optical scanning apparatus utilizing line integration.

Carter (US patent NO. 6,006,140) teaches an infrared microscope stage control.

Stockham et al. (US patent NO. 6,177,937) teaches a computerized apparatus and method for displaying X-ray for radiographical analysis.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amr Awad whose telephone number is (703)308-8485. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (703)305-4713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AMR A. AWAD
PRIMARY EXAMINER

A.A.